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Filing date: **01/16/2020**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92070344
Party	Plaintiff Biohacked, Inc.
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Submission	Other Motions/Papers
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Signature	/Michael J. Folise/
Date	01/16/2020
Attachments	Motion to Withdraw Cancellation With Prejudice Final.pdf(281269 bytes)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BIOHACKED, INC.,
(a corporation of the state of Delaware),

Petitioner,

v.

LIVE EYEWEAR, INC.,
(a corporation of the state of California),

Registrant.

Cancellation No. 92070344

PETITIONER'S MOTION TO RESUME
PROCEEDINGS AND DISMISS
PETITION

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The Petitioner, through its undersigned counsel requests that this Board resume this Cancellation Proceeding and dismiss Petitioner's claims herein.

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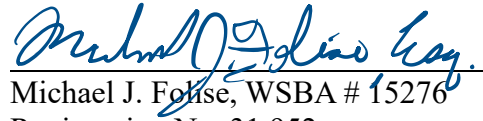
On July 11, 2019, this Board issued an Order (Bd. Dkt. No. 10) suspending the proceedings herein pending a final order by the United States District Court for the Central district of California in the corresponding Civil Action No. 19-cv-00461-FMO-PLA, captioned, "Live Eyewear, Inc v. Biohacked, Inc and Does 1-10", (hereinafter the Civil Action). The Civil Action has been dismissed with prejudice. (*See* Ct. Dkt. Nos. 76 and 78.) True and accurate copies of Dkt. Nos. 76 and 78 are attached as Exhibits A and B.

1 In light of the parties' Confidential Settlement Agreement, Petitioner respectfully requests
2 that the Board withdraw the Petition for Cancellation with prejudice.

3
4 DATED this 14 day of January, 2020.

5 Respectfully submitted,

6 LOWE GRAHAM JONES PLLC

7 
8 Michael J. Folise, WSBA # 15276

9 Registration No. 31,952

10 LOWE GRAHAM JONES PLLC

11 701 Fifth Avenue, Suite 4800

12 Seattle, Washington 98104

13 Telephone: (206) 381-3300

14 Attorneys for Petitioner

EXHIBIT A

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JS-6

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LIVE EYEWEAR, INC.

Plaintiff(s),

v.

BIOHACKED, INC. , et al.

Defendant(s).

CASE NO:

2:19-cv-00461-FMO-PLA

**ORDER DISMISSING ACTION
WITHOUT PREJUDICE**

Having been advised by counsel that the above-entitled action has been settled, IT IS ORDERED that the above-captioned action is hereby **dismissed** without costs and without prejudice to the right, upon good cause shown within **30 days from the filing date of this Order**, to re-open the action if settlement is not consummated. The court retains full jurisdiction over this action and this Order shall not prejudice any party to this action.

IT IS SO ORDERED.

DATED: December 13, 2019

/s/ Fernando M. Olguin
Fernando M. Olguin
United States District Judge

EXHIBIT B

1 Nicole M. Norris (SBN 222,785)
LIVE EYEWEAR, INC.
2 3490 Broad Street
San Luis Obispo, CA 93401
3 Telephone: 805-782-5070
Facsimile: 805-782-5077
4 Email: nnorris@liveeyewear.com

5 Attorney for Plaintiff
LIVE EYEWEAR, INC.

6 Paul A. Stewart (SBN 153,467)
7 paul.stewart@knobbe.com
Ali S. Razai (SBN 246,922)
8 ali.razai@knobbe.com
Nicole Rossi Townes (SBN 272,342)
9 nicole.townes@knobbe.com
KNOBBE, MARTENS, OLSON & BEAR, LLP
10 2040 Main Street, Fourteenth Floor
Irvine, CA 92614
11 Phone: (949) 760-0404 / Facsimile: (949) 760-9502

12 Attorneys for Defendant
BIOHACKED, INC.

14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

17

LIVE EYEWEAR, INC.,
18 Plaintiff,
19 v.
20 BIOHACKED, INC., a Delaware
corporation, and DOES 1 through
10, inclusive.
21 Defendants.
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) Case No. 2:19-cv-00461 FMO (PLAx)
) Hon. Fernando M. Olguin

) **JOINT STIPULATION OF**
) **DISMISSAL PURSUANT TO FED. R.**
) **CIV. P. 41(a)(1)(A)(ii)**

1 Plaintiff Live Eyewear, Inc. (“Live Eyewear”) and Defendant Biohacked,
2 Inc. (“Biohacked”), acting through their respective counsel of record, hereby
3 stipulate to the dismissal with prejudice of all claims and defenses pending in the
4 above-captioned action.

5 This Stipulation of Dismissal is submitted pursuant to a Settlement
6 Agreement between Live Eyewear and Biohacked. Live Eyewear and Biohacked
7 have each agreed to bear their own costs, expenses, and attorneys’ fees.

8 Respectfully submitted,
9 KNOBBE, MARTENS, OLSON & BEAR, LLP

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12 Dated: January 8, 2020 By: /s/ Ali S. Razai
13 Paul A. Stewart
14 Ali S. Razai
15 Nicole R. Townes

16 Attorneys for Defendant,
17 BIOHACKED, INC.

18
19 Dated: January 8, 2020 By: /s/ Nicole Norris
20 Nicole Norris
21 Attorney for Plaintiff
22 LIVE EYEWEAR, INC.
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SIGNATURE ATTESTATION

I am the ECF User whose identification and password are being used to file the foregoing JOINT STIPULATION OF DISMISSAL PURSUANT TO FED. R. CIV. P. 41(a)(1)(A)(ii). In compliance with Local Rule 5-4.3.4(a)(2)(i), I hereby attest that the other signatories to this filing have concurred in this filing.

DATED: January 8, 2020

By: /s/ Nicole M. Norris
NICOLE M. NORRIS
Attorney for Plaintiff/Counter-Defendant LIVE EYEWEAR, INC.

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